

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD ARTHUR KIRKHAM,

Plaintiff,

v.

WHATCOM COUNTY, et al.,

Defendants.

CASE NO. 2:25-CV-208-DGE-DWC

ORDER DIRECTING CLERK'S
OFFICE TO AMEND DOCKET

This prisoner civil rights action has been referred to United States Magistrate Judge David W. Christel. Before the Court is Plaintiff Richard Arthur Kirkham's motion for summary judgment, which he has designated as a "cross-motion" in response to County Defendants' motion to dismiss. Dkt. 35.

A cross-motion is properly filed only when it responds in kind to an opposing party's motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. *See generally* 10A Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 2720 (4th ed.) ("Cross-motions are no more than a claim by each side that it alone is entitled to summary judgment."). A motion to dismiss under Rule 12(b), by contrast, is not procedurally

1 equivalent to a motion for summary judgment and does not trigger the use of a cross-motion for
2 summary judgment. Because County Defendants have filed a motion to dismiss—not a motion
3 for summary judgment—Plaintiff’s filing is properly considered a stand-alone motion for
4 summary judgment, not a cross-motion.

5 Accordingly, the Clerk’s Office is directed to amend the docket to remove the improper
6 “cross-motion” designation on Plaintiff’s motion for summary judgment. Dkt. 35. Furthermore,
7 the parties are advised that the briefing schedule for all pending motions remains in accordance
8 with this Court’s local rules. *See* Local Rules W.D. Wash. LCR 7(d). That is, County
9 Defendants’ reply in support of their motion to dismiss (Dkt. 27) is due not later than August 28,
10 2025, which is the date noted for consideration of that motion. County Defendants’ response in
11 opposition to Plaintiff’s motion for summary judgment (Dkt. 35) is due not later than September
12 8, 2025, and Plaintiff reply in support of his motion is due not later than September 15, 2025,
13 which is the date noted for consideration of that motion.

14 Dated this 27th day of August, 2025.

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17 David W. Christel
18 United States Magistrate Judge
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